

DECISION



Pl 1 23512
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-207612

DATE: November 5, 1982

MATTER OF: Fischbach, McCoach & Associates, Inc.

DIGEST:

Complaint regarding the award of cooperative agreements will not be considered where complainant has not shown that agency awarded agreements to circumvent the procurement laws or regulations or that conflict of interest was involved.

Fischbach, McCoach & Associates, Inc. (Fischbach), complains of the Small Business Administration's (SBA) award of cooperative agreements for management and technical assistance under project No. MSB-82-001-00 to First Harlem Management Corporation (FHMC) for four geographic areas in New York and to Raven Management Associates, Inc. (Raven), for one geographic area in New York.

Fischbach complains about the award of a single cooperative agreement to FHMC for four geographic areas because Fischbach contends that structuring the solicitation into those four task areas indicated an intention to make four awards. Fischbach also asserts that the agency evaluation process did not adequately consider either Fischbach's lower cost or the high caliber of Fischbach's prior work. Further, Fischbach questions whether FHMC possesses the necessary expertise required to fulfill the cooperative agreement requirements. With respect to the award to Raven, Fischbach states that it submitted a much lower cost proposal than Raven.

We dismiss the complaints.

We will consider complaints from prospective contractors concerning the award of contracts by grantees under Federal grants in order to foster compliance with grant terms and with statutory and regulatory requirements. GAO Public Notice, 40 Fed. Reg. 42406 (1975). However, as the Public Notice indicates, it is not our intention to interfere with the function and responsibility of grantor agencies in

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the award of grants. Fisherman's Marketing Associates of Washington, Inc., B-199247, August 21, 1980, 80-2 CPD 138. Here, the Federal assistance instrument is a cooperative agreement rather than a grant. However, we have held that, for the purposes of our review, the two are treated alike. Renewable Energy, Inc., B-203149, June 5, 1981, 81-1 CPD 451.

We will consider the propriety of the award of a cooperative agreement only where there is a showing that the agency chose to use the cooperative agreement process to avoid the competitive requirements of the procurement statutes and regulations or that there was a conflict of interest involved. There has been no such showing here. Accordingly, the complaint does not fall within the exceptions to our stated policy of declining to review such awards. Renewable Energy, Inc., supra; Del Manufacturing Company, B-200048, May 20, 1981, 81-1 CPD 390; Burgos & Associates, Inc., 59 Comp. Gen. 273 (1980), 80-1 CPD 155.

Harry R. Van Cleve
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Acting General Counsel